IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

APPEAL FROM ORDER NO.1042 OF 2005

Ramesh Lakhpatrai Agarwal ..Appellant.
Vs.
Ramcharitra Rambhajan Singh & Ors. ..
Respondents.

...

Mr. Janak Dwarkadas, Senior Advocate with Ms. Madhavi Diwan i/b Mr. N.R. Gandhi for the Appellant.

Mr. R.A. Kapadia, Senior Advocate with Mr. Arif Bookwala and Mr. Bharat Chaudhary i/b A.P. Fanibanda for Respondent No.1.

Mr. Aspi Chinoy, Senior Advocate with Mr. Pravin Samdani i/b M/s. Mahimtura & Co. for Respondent No.2.

Mr. Zal Andhyarujina i/b M/s. Chitnis Vaithy & Co. for Respondent No.3.

Mr. Shyam Diwan, Senior Advocate i/b Utangale & Co. for Respondent No.4.

WITH
APPEAL FROM ORDER NO.1043 OF 2005

Atithi Builders ..Appellant.
Vs.
Ramcharitra Rambhajan Singh & Ors. ..
Respondents.

...

Mr. Aspi Chinoy, Senior Advocate with Mr. Pravin Samdani i/b M/s. Mahimtura & Co. for the Appellant.

Mr. R.A. Kapadia, Senior Advocate with Mr. Arif Bookwala and Mr. Bharat Chaudhary i/b A.P. Fanibanda for Respondent No.1.

Mr. Janak Dwarkadas, Senior Advocate with Ms. Madhavi Diwan

i/b Mr. N.R. Gandhi for Respondent No.2.

Mr. Zal Andhyarujina i/b M/s. Chitnis Vaithy & Co. for Respondent No.3.

Mr. Shyam Diwan, Senior Advocate i/b Utangale & Co. for Respondent No.4.

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CORAM : DR.D.Y.CHANDRACHUD, J.

22nd November, 2005.

P.C. :

At the hearing of this Appeal, it has been stated on behalf of the Original Plaintiff in the suit before the City Civil Court, that the Plaintiff seeks to withdraw the suit (S.C. Suit 4595 of 2005) with liberty to institute a substantive suit within a period of two weeks from today.

2. In view of the aforesaid statement which has been made on behalf of the Plaintiff by learned counsel, it has been stated on behalf of the Appellant in Appeals 1042 and 1043 of 2005 that the existing interim order dated 21st October, 2005 of the City Civil Court may be restricted to 30% of the permissible area in respect of Survey Nos. 252, 244 and 245 of Village Mulund (West)

comprising of 17,671.95 sq. mtrs. and 25% of permissible area in respect of Survey Nos 250 and 251 comprising of 7206.24 sq. mtrs. as indicated in the areas shaded blue in the plan which is taken on record and marked as 'X'. By consent, there shall be an order in these terms. It has also been stated that any TDR that is received by the Appellant shall be retained / blocked to the same extent i.e. 30% of Survey Nos. 252, 244 and 245 and 25% of Survey Nos. 250 and 251. This shall be without prejudice to the rights and contentions of the parties. The aforesaid order shall remain in operation for a period of four weeks from today.

3. S. C. Suit 4595 of 2005 is, on the request of the Plaintiff, dismissed as withdrawn.

The Appeals are accordingly disposed of.